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8  
9 **UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11  
12 **In re:**

13 **PG&E CORPORATION,**

14 **- and -**

15 **PACIFIC GAS AND ELECTRIC**  
16 **COMPANY,**

17 **Debtors.**

- 18 ☐ Affects PG&E Corporation  
19 ☐ Affects Pacific Gas and Electric Company  
☒ Affects both Debtors

20 *\* All papers shall be filed in the Lead Case, No.*  
21 *19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**REORGANIZED DEBTORS' ONE  
HUNDRED SEVENTH OMNIBUS  
OBJECTION TO CLAIMS (MCCOLM  
CLAIMS)**

**Response Deadline:**  
**October 5, 2021, 4:00 p.m. (PT)**

**Hearing Information If Timely Response Made:**

Date: October 19, 2021

Time: 10:00 a.m. (Pacific Time)

Place: (Tele/Videoconference Appearances Only)

United States Bankruptcy Court

Courtroom 17, 16th Floor

San Francisco, CA 94102

1 **TO: (A) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**  
2 **JUDGE; (B) THE OFFICE OF THE UNITED STATES TRUSTEE; (C) THE AFFECTED**  
3 **CLAIMANTS; AND (D) OTHER PARTIES ENTITLED TO NOTICE:**

4 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as  
5 debtors and reorganized debtors (collectively, “**PG&E**” or the “**Debtors**” or as reorganized pursuant to  
6 the Plan (as defined below), the “**Reorganized Debtors**”) in the above-captioned chapter 11 cases (the  
7 “**Chapter 11 Cases**”) hereby submit this One Hundred Seventh Omnibus Objection (the “**Objection**”) to the Proofs of Claim (as defined below) identified in the column headed “Claims To Be Disallowed and Expunged” on **Exhibit 1** annexed hereto.

9 **I. JURISDICTION**

10 This Court has jurisdiction over this Objection under 28 U.S.C. §§ 157 and 1334; the *Order*  
11 *Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.); and  
12 Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern  
13 District of California (the “**Bankruptcy Local Rules**”). This matter is a core proceeding pursuant to 28  
14 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The  
15 statutory predicates for the relief requested are section 502 of Title 11 of the United States Code (the  
16 “**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy**  
17 **Rules**”).

18 **II. BACKGROUND**

19 On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary  
20 cases under chapter 11 of the Bankruptcy Code. Prior to the Effective Date (as defined below), the  
21 Debtors continued to operate their businesses and manage their properties as debtors in possession  
22 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner was appointed  
23 in either of the Chapter 11 Cases. The Chapter 11 Cases are being jointly administered for procedural  
24 purposes only pursuant to Bankruptcy Rule 1015(b).

25 Additional information regarding the circumstances leading to the commencement of the  
26 Chapter 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in  
27 the *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief*  
28 [Docket No. 263].

1 On July 1, 2019, the Court entered the *Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105(a),*  
2 *Fed. R. Bankr. P. 2002, 3003(c)(3), 5005, and 9007, and L.B.R. 3003-1 (I) Establishing Deadline for*  
3 *Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, and (III) Approving*  
4 *Procedures for Providing Notice of Bar Date and Other Information to All Creditors and Potential*  
5 *Creditors* [Docket No. 2806] (the “**Bar Date Order**”). The Bar Date Order set the deadline to file all  
6 proofs of claim (each, a “**Proof of Claim**”) in respect of any prepetition claim (as defined in section  
7 101(5) of the Bankruptcy Code), including all claims of Fire Claimants (as defined therein), Wildfire  
8 Subrogation Claimants (as defined therein), Governmental Units (as defined in section 101(27) of the  
9 Bankruptcy Code), and Customers, and for the avoidance of doubt, including all secured claims and  
10 priority claims, against either of the Debtors as October 21, 2019, at 5:00 p.m. Pacific Time (the “**Bar**  
11 **Date**”). The Bar Date later was extended solely with respect to unfiled, non-governmental Fire  
12 Claimants to December 31, 2019 [Docket No. 4672]<sup>1</sup>; and subsequently with respect to certain claimants  
13 that purchased or acquired the Debtors’ publicly held debt and equity securities and may have claims  
14 against the Debtors for rescission or damages to April 16, 2020 [Docket No. 5943].

15 By Order dated June 20, 2020 [Docket No. 8053], the Bankruptcy Court confirmed the *Debtors’*  
16 *and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June 19, 2020* (as may be  
17 further modified, amended or supplemented from time to time, and together with any exhibits or  
18 schedules thereto, the “**Plan**”). The Effective Date of the Plan occurred on July 1, 2020 (the “**Effective**  
19 **Date**”). See Dkt. No. 8252.

### 20 **III. RELIEF REQUESTED**

21 The Reorganized Debtors file this Objection, pursuant to section 502 of the Bankruptcy Code,  
22 Bankruptcy Rule 3007(d)(5), Bankruptcy Local Rule 3007-1, and the *Order Approving (A) Procedures*  
23 *for Filing Omnibus Objections to Claims and (B) the Form and Manner of the Notice of Omnibus*  
24 *Objections*, dated June 30, 2020 [Docket No. 8228] (the “**Omnibus Objections Procedures Order**”),  
25 seeking entry of an order disallowing and expunging Proofs of Claim filed by Patricia A. McColm  
26 (“**McColm**”), for which the Reorganized Debtors are not liable (the “**McColm Claims**”).

27 <sup>1</sup> The claims of Fire Claimants will be administered through the Fire Victim Trust and the claims of  
28 Wildfire Subrogation Claimants through the Subrogation Wildfire Trust in accordance with the Plan.

1 The McColm Claims are identified in the column headed “Claims To Be Disallowed and  
2 Expunged” in **Exhibit 1**. Each claim concerns a separate incident in 2019 where McColm alleges the  
3 Utility wrongfully entered onto and damaged her real property while servicing its utility lines.

4 PG&E and McColm were parties to litigation filed by the Utility concerning PG&E’s rights with  
5 respect to an easement running across a portion of real property owned by McColm, which the Utility  
6 filed in the Superior Court of the State of California, County of Trinity (the “**Superior Court**”), Case  
7 No. 10 CV 065. On October 2, 2015, the Superior Court entered a *Judgment After Trial in Favor of*  
8 *Pacific Gas and Electric Company for Prescriptive Easement, Permanent Injunction, and Damages* (the  
9 “**Judgment**”). The Superior Court found that the Utility is the legal successor in interest to a grant of a  
10 right of way dating from 1916, and that it holds through prescription an easement to erect, access, and  
11 maintain electric light and power pole transmission, distribution lines and facilities through, over, and  
12 across the lands described in Exhibit 1 to the Judgment. The Judgment, among other relief, provides  
13 that (i) the Utility is entitled to an easement for its electrical transmission lines across McColm’s  
14 property, (ii) the Utility is entitled to maintain the equipment on its easement, (iii) McColm is  
15 permanently enjoined from obstructing the Utility’s efforts to maintain its equipment and manage the  
16 vegetation within the easement, (iv) entitles the Utility to remove locks and relocate vehicles blocking  
17 access to its easement to perform lawful maintenance of its equipment and management of vegetation  
18 on the easement. The Judgment also awarded the Utility general and compensatory damages. A true  
19 and correct copy of the Judgment is attached to the Declaration of Cesar V. Alegria, Jr. (the “**Alegria**  
20 **Declaration**”) submitted in support of this Objection and filed contemporaneously herewith, as  
21 **Exhibit A**.

22 On December 31, 2015, McColm appealed the Judgment in the California Court of Appeal, Third  
23 Appellate District (the “**Court of Appeal**”), Case No. C080984 (the “**Appeal**”). The Appeal has  
24 remained pending for over five years, and McColm has yet to file an opening brief. After receiving  
25 numerous extensions to designate the record on appeal, McColm sought and received ten extensions of  
26 time to file her opening brief, which was first due in the Spring of 2019. Most recently, on August 30,  
27 McColm sought to have the September 3, 2021 deadline for her opening brief extended for another six  
28 months. Given the length of time that the Appeal has been pending and McColm’s repeated requests for

1 extensions, there is no indication of when, if ever, the matter will be fully briefed and the Court of Appeal  
2 will decide the Appeal.

3 In the meantime, PG&E continues to exercise its rights in accordance with the Judgment,  
4 accessing its easement to maintain its equipment and manage vegetation within the easement. The  
5 McColm Claims filed in the Chapter 11 Cases appear to assert that, because McColm filed her Appeal  
6 of the Judgment, which Appeal has been pending since 2015, PG&E cannot enforce its rights with  
7 respect to the easement pursuant to the Judgment and enter McColm's property. However, McColm  
8 never sought a stay of the Judgment until 2019 and on October 4, 2019, the Court of Appeal denied  
9 McColm's request for a stay pending appeal.

#### 10 **IV. ARGUMENT**

##### 11 **A. The McColm Claims Should be Disallowed and Expunged**

12 The Omnibus Objections Procedures Order supplemented Bankruptcy Rule 3007(d) to permit  
13 the Reorganized Debtors to file objections to more than one claim if "[t]he claims seek recovery of  
14 amounts for which the Debtors are not liable" or "[t]he claims are objectionable on some other common  
15 basis under applicable bankruptcy or non-bankruptcy law . . . ." Omnibus Objections Procedures Order,  
16 ¶ 2(C)(iii), (vii). Bankruptcy Rule 3007(e) requires that an omnibus objection must list the claimants  
17 alphabetically and by cross-reference to claim numbers. The Reorganized Debtors and their  
18 professionals have reviewed each of the McColm Claims identified on **Exhibit 1** and have determined  
19 that each represents a Proof of Claim for which the Reorganized Debtors are not liable. There is only  
20 one claimant, McColm, and both claim numbers and amounts are identified in accordance with  
21 Bankruptcy Rule 3007(e). Furthermore, in accordance with the Omnibus Objections Procedures Order,  
22 the Reorganized Debtors have sent individualized notices to McColm as the holder of the McColm  
23 Claims.

24 Proof of Claim No. 7659 relates to an alleged improper entry by the Utility onto its easement on  
25 January 23, 2019, a few days before the Petition Date. Proof of Claim No. 104538 relates to alleged acts  
26 by the Utility on November 5, 2019, nine months after the Petition Date, which McColm alleges are part  
27 of a "continuing conspiracy." McColm does not allege in either of the McColm Claims any specifics on  
28 how the Utility's acts were wrongful, and specifically how they were in contravention to the Utility's

1 rights under its easement as set forth in the Judgment.<sup>2</sup> Indeed, the alleged acts of PG&E that are the  
2 basis of the McColm Claims are acts that are permitted under the Judgment – acts taken to access the  
3 property in order to exercise its easement rights. As stated above, the Judgment sets forth PG&E’s rights  
4 with respect to the easement and enjoins McColm from impeding PG&E’s access to its easement.  
5 Instead, McColm asserts that the Appeal somehow stayed the Judgment, and that PG&E is not permitted  
6 to enforce its rights under the Judgment while it is on appeal. But the Appeal did not stay the Judgment  
7 here; indeed, the Court of Appeal denied McColm’s request for a stay pending appeal. Therefore, PG&E  
8 has at all relevant times been permitted to exercise its rights with respect to the easement as set forth in  
9 the Judgment. For the reasons set forth herein, the McColm Claims identified on **Exhibit 1** should be  
10 disallowed and expunged.

11 **B. The Claimants Bear the Burden of Proof**

12 A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C.  
13 § 502(a).<sup>3</sup> Section 502(b)(1) of the Bankruptcy Code, however, provides in relevant part that a claim  
14 may not be allowed if “such claim is unenforceable against the debtor and property of the debtor, under  
15 any agreement or applicable law.” 11 U.S.C. § 502(b)(1). Once the objector raises “facts tending to  
16 defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves,”  
17 *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991), quoting 3 L. King, *Collier on*  
18 *Bankruptcy* § 502.02 at 502-22 (15th ed. 1991), then “the burden reverts to the claimant to prove the  
19 validity of the claim by a preponderance of the evidence,” *Ashford v. Consolidated Pioneer Mortgage*

20 \_\_\_\_\_  
21 <sup>2</sup> Although the Utility, and not PG&E Corp., is the party to the Judgment and the Appeal and the entity  
22 alleged to have committed the acts at issue in the McColm Claims, McColm filed the McColm Claims  
23 against PG&E Corp. and not the Utility. The Reorganized Debtors submit that neither Debtor is liable  
on the McColm Claims for the reasons set forth in this Objection.

24 <sup>3</sup> Upon the Reorganized Debtors’ request, the deadline under Section 7.1 of the Plan for the Reorganized  
25 Debtors to bring objections to Claims initially was extended through and including June 26, 2021 (except  
26 for Claims of the United States, which deadline was extended to March 31, 2021) [Docket No. 9563].  
27 That deadline has been further extended through December 23, 2021, except for Claims of the California  
28 Department of Forestry and Fire Protection, which deadline was extended to September 30, 2021,  
without prejudice to the right of the Reorganized Debtors seek further extensions thereof [Docket  
No. 10494]. The deadline with respect to Claims of the United States have twice been further extended  
by stipulation and order [Docket Nos. 10459, 10463, 10983, and 10986].

1 (*In re Consolidated Pioneer Mortgage*), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re*  
2 *Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff'd without opinion* 91 F.3d 151 (9th Cir.  
3 1996). “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623 (quoting  
4 *King, Collier on Bankruptcy*); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039  
5 (9th Cir. 2000); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P. 9th Cir. 1993); *In re Fidelity*  
6 *Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

7 As set forth above, the McColm Claims assert amounts for which the Reorganized Debtors are  
8 not liable and, therefore, should be disallowed and expunged in their entirety. If McColm believes that  
9 her claims are valid, she must present affirmative evidence demonstrating the validity of her claims.

#### 10 **V. RESERVATION OF RIGHTS**

11 The Reorganized Debtors hereby reserve the right to object, as applicable, in the future to any of  
12 the Proofs of Claim listed in this Objection on any ground, and to amend, modify, or supplement this  
13 Objection to the extent an objection to a claim is not granted, and to file other objections to any proofs  
14 of claims filed in these cases, including, without limitation, objections as to the amounts asserted therein,  
15 or any other claims (filed or not) against the Debtors, regardless of whether such claims are subject to  
16 this Objection. A separate notice and hearing will be scheduled for any such objections. Should the  
17 grounds of objection specified herein be overruled, wholly or in part, the Reorganized Debtors reserve  
18 the right to object to the McColm Claims on any other grounds that the Reorganized Debtors may  
19 discover or deem appropriate.

#### 20 **VI. NOTICE**

21 Notice of this Objection will be provided to (i) the holder of the McColm Claims; (ii) the Office  
22 of the U.S. Trustee for Region 17 (Attn: Andrew R. Vara, Esq. and Timothy Laffredi, Esq.); (iii) all  
23 counsel and parties receiving electronic notice through the Court’s electronic case filing system; and  
24 (iv) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant  
25 to Bankruptcy Rule 2002. The Reorganized Debtors respectfully submit that no further notice is  
26 required. No previous request for the relief sought herein has been made by the Reorganized Debtors to  
27 this or any other Court.  
28

1           WHEREFORE the Reorganized Debtors respectfully request entry of an order granting (i) the  
2 relief requested herein as a sound exercise of the Reorganized Debtors' business judgment and in the  
3 best interests of their estates, creditors, shareholders, and all other parties' interests, and (ii) such other  
4 and further relief as the Court may deem just and appropriate.

5 Dated: September 9, 2021

**KELLER BENVENUTTI KIM LLP**

6 By: /s/ Thomas B. Rupp  
7 Thomas B. Rupp

8 *Attorneys for Debtors and Reorganized Debtors*  
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